

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

KEVIN DALE CARSON,

Petitioner,

v.

JASON BENNETT,

Respondent.

Case No. C24-5591-DGE

ORDER ADOPTING REPORT AND
RECOMMENDATION AND
DISMISSING ACTION

Presently before the Court is the Report and Recommendation (“R&R”) of Michelle L. Peterson, United States Magistrate Judge, recommending dismissal of Petitioner’s federal habeas petition. (Dkt. No. 21.)

Petitioner filed his habeas petition on August 15, 2024. (Dkt. No. 5.) The same day, Judge Peterson issued an order directing Petitioner to show cause why this action should not be dismissed. (Dkt. No. 6.) In her order, Judge Peterson identified several barriers to Petitioner proceeding with this action. First, Judge Peterson found Petitioner has not presented the issue raised in his federal habeas petition to any state appellate court for review, and therefore had not exhausted his state court remedies, a requirement for federal habeas review. (*Id.* at 2.) Second,

Judge Peterson found Petitioner's habeas petition would likely be time barred under 28 U.S.C. § 2244(d). (*Id.*) Petitioner did not respond to the order to show cause.

On October 21, 2024, Judge Peterson issued the present R&R, recommending dismissal of Petitioner's federal habeas petition without prejudice. (Dkt. No. 21.) Judge Peterson also recommended the Court deny Petitioner's other pending motions as moot and that a certificate of appealability be denied. (*Id.*) Petitioner filed a list of 15 objections to Judge Peterson's R&R, none of which address the issues raised by the order to show cause or the R&R. (Dkt. No. 25.)

Accordingly, the Court, having reviewed Petitioner's petition for writ of habeas corpus, the Report and Recommendation of Michelle L. Peterson, United States Magistrate Judge, Petitioner's objections and the remaining record de novo, hereby finds and ORDERS:

(1) The Report and Recommendation is APPROVED and ADOPTED.


(2) Petitioner's petition for writ of habeas corpus (Dkt. No. 5) and this action are DISMISSED without prejudice.

(3) Petitioner's pending motions (Dkt. Nos. 17, 18, 24) are DENIED as moot.

(4) In accordance with Rule 11 of the Rules Governing Section 2254 Cases in the United States District Courts, a certificate of appealability is DENIED.

(5) The Clerk is directed to send copies of this Order to Petitioner and to the Honorable Michelle L. Peterson.

DATED this 19th day of November, 2024.



David G. Estudillo
United States District Judge